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| PASTEL LAW FIRM CHRISTOPHER R. PASTEL 8 PERRY LANE ITHACA, NY 14850-9267 | | | EXAMINER CHIN, RANDALL E | |
| | | | ART UNIT 3723 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,910

Applicant(s)

FAIOLA, NORMAN

Examiner

Randall Chin

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 13, 14 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13, 14 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-6, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Beck 1,329,694 (hereinafter Beck).

As for claim 18, Beck teaches a cleaning apparatus in Figs. 1 and 3 comprising a brush assembly which includes a brush 25 removably attached to a brace merely defined by clamping plates 11, 12 and jaws 15, 16, for example, said brush 25 including a plurality of bristles, said brush 25 having at least one cleaning surface, and wherein said brace is selectively engageable with a faucet 10 (lines 23-27) such that said brace is **capable of** being manipulated with respect to said faucet 10, while engaged with said faucet 10, between a first pre-selected position and a second pre-selected position.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck 1,329,694 (hereinafter Beck) in view of Rix 1,553,915 (hereinafter Rix).

As for claim 1, the patent to Beck discloses in Figs. 1 and 3 an apparatus, comprising a brush assembly 25, said brush assembly 25 including a backplane with at least one brush attached to said backplane such that all of a plurality of bristles on said at least one brush faces perpendicularly outward from said backplane, and a one-piece clamp serving as a "brace" 11, 12, 15, 16 which attaches (at least indirectly) to "an inside" (i.e., merely to "an inside" **facing** surface shown in Fig. 1; also, not clearly positively recited) of the backplane and is effective for attaching said brush assembly 25 to a faucet 10 (p. 1, lines 40-50). The patent to Beck discloses all of the recited subject matter as set forth above with the exception of a resilient clamping mechanism which attaches said brush assembly to a faucet by stretching and then contracting onto said faucet. The patent to Rix discloses a resilient clip retainer or clamping mechanism 23, 23 which attaches a cleaning assembly to a pipe 10 by stretching and then contracting onto said pipe 10 (p. 2, lines 71-76). It would have been obvious to one of ordinary skill in the art to have substituted the resilient clamping mechanism of Rix for Beck's more rigid clamping mechanism portion defined by jaws 11, 12, 15, 16 for the purpose of enabling the clamping mechanism to more easily stretch and contract (or detach as well) onto faucets or pipes of various sizes or diameters thus rendering the apparatus easier to use.

As for claim 2, said "brace" is effective for pivoting said brush assembly in and out of line with a workstation.

As for claim 6, said "brace" is removably attachable to the faucet (through Beck's wing nut 14).

As for claim 3, 4 and 5, it would have been obvious to one of ordinary skill in the art to have chosen such specific metals such as stainless steel for the backplane and/or "brace" to prevent rust buildup in a water environment and for durability and stability purposes when attached to the faucet.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Rix as applied to claim 1 above, and further in view of Hubert 2,019,705 (hereinafter Hubert).

The patent to Hubert discloses in Fig. 3, for example, a brush arrangement comprising two opposed brushes each facing outwards from a "backplane" 100 (Fig. 4). It would have been obvious to have provided the modified Beck apparatus with an arrangement wherein the brush is at least two opposed brushes each facing outwards from a backplane as suggested by Hubert for facilitating the scrubbing of both hands simultaneously.

Allowable Subject Matter

6. Claims 13, 14 and 20 are allowed.

Conclusion

7. Applicant's arguments filed 15 November 2010 have been fully considered but they are not persuasive.

All of Applicant's arguments have been considered in their entirety, however, are deemed unpersuasive for the following reasons.

With respect to claim 18 which has been rejected under 35 U.S.C. 102 as being anticipated by Beck, Applicant argues that the examiner reads the claim term "brace" as including the assembly defined by clamping plates 11, 12 and jaws 15, 16 in Beck. Applicant further asserts that the clamping mechanism of Beck is just that, i.e., a clamping mechanism, and not a brace as required by the claim. Applicant points out that in the specification in paragraph [14], wherein a brush 38 is attached to brace 36 as depicted in Fig. 1 and that in the embodiment shown in Fig. 2, paragraph [19], no brace is mentioned; instead, a fastener adjustable clamp 40 is described.

Applicant's arguments here are deemed unconvincing, particularly in view of the fact that Applicant's highlighted paragraph [014] of the instant application, for example, actually includes **both** the specific terms/phrases **brace 36** as well as **clamp or clamping** portion 8 when referring to the Fig. 1 embodiment. In fact, paragraph [014] **explicitly** recites that "...**brace 36** is engaged to faucet 7 via a **clamp or clamping** portion 8." (emphasis added). Thus, the brace includes the clamp or clamping portion and vice versa and such terms/phrases have been clearly used together. In any case, even *without* such an explicit disclosure by Applicant's specification, Beck's clamping plates 11, 12 and jaws 15, 16 as shown in Figs. 1 and 3 clearly serve or function as a

"brace" since Merriam Webster's Collegiate Dictionary, Tenth Edition, simply defines "brace" as something that connects or fastens, or something that supports weight or pressure, or that fastens tightly, all of which are deemed met by Beck.

Applicant's arguments with respect to claim 1 (and dependent claims 2-6 and 19) based upon Beck in view of Rix are deemed adequately addressed and explained in the above art rejections.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/
Primary Examiner, Art Unit 3723